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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,442	03/04/2002	Hideaki Hirai	R2184.0137/P137	4020

24998 7590 01/14/2005

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EXAMINER
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HINDI, NABIL Z

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/086,442

Applicant(s)

HIRAI ET AL.

Examiner

NABIL Z HINDI

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) 5, 8, and 14-81 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

In response to applicant's letter dated November 12, 2004. The following action is taken:

Applicant's election without traverse of claims 1-4, 6, 7 and 9-13 drawn to fig 3 is acknowledged by the examiner. Claims 5, 8 and 14-81 are withdrawn from further consideration.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 7 and 9-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the admitted prior art (fig 1).

The reference shows an optical disk reading apparatus having a first and second light sources 101, 2011, photo detection means 2013, a polarizing type prism 103, a non-polarizing type prism (dichroic prism) 104, a phase plate 105, a light path combining part 106, and a light converging element (objective lens) 107. wherein at least one of

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the emitted light beams passes through the phase plate 105, dichroic prism 104 and the objective lens 107 as shown by fig 1.

With respect to the limitations of claims 2 and 9. The re-positioning of the phase plate is well established in the art within the apparatus and merely a relocation of element without any unexpected results.

With respect to the limitation of claim 3. The reference shows an identical structural elements within the art meeting one the infinite range as claimed.

With respect to the limitation of claim 4 see elements 2011 and 101.

With respect to the limitations of claims 6 and 7. The reference shows the use of a  $\frac{1}{4}$  wavelength phase plate as cited in the disclosed invention.

With respect to the limitations of claims 10, 12 and 13 see fig 1 element 104.

Claims 1-4, 6, 7 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ju et al (5974020).

The reference shows an optical disk reading apparatus comprising a first and second light sources 51, 52, a polarizing light beam splitter 56, a dichroic prism 55, a  $\frac{1}{4}$  wave plate 57, photo detection means 564, 563 a combining prism 59 and an objective lens 560.

With respect to the limitation of claim 2 see elements 51, 52, 55, 57 and 560.

With respect to the limitation of claim 3. the reference discloses the use of an objective lens, phase plate and dichroic prism 55 having one of the values falling within the infinite claimed range.

With respect to the limitation of claim 4 see elements 51 and 52.

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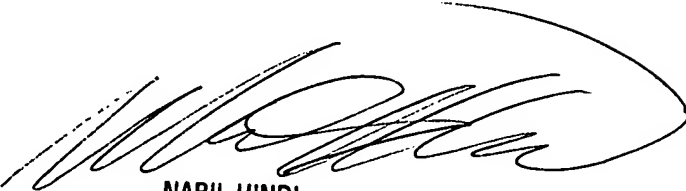
With respect to the limitations of claims 6, 7, 12 and 13. The reference shows the use of a  $\frac{1}{4}$  wave plate which the same structural element disclosed in the invention.

With respect to the limitation of claim 9 see elements 57, 560 and 55.

With respect to the limitation of claim 10 see fig 5.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6009066 and 6266314.

Any inquiry concerning this communication should be directed to NABIL Z HINDI at telephone number (703) 308-1555.



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2655